

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF
AMERICA,
Plaintiff

Case no. 3:10-cr-00187

-v-

DAVION DAVIS,
Defendant

FILED
SCRANTON

JUN 29 2020

PER


DEPUTY CLERK

EMERGENCY MOTION FOR REDUCTION
IN SENTENCE PURSUANT TO 18 U.S.C.
3582(C)(1)(A)(i) AS AMENDED BY
THE FIRST STEP ACT OF 2018

Defendant, Davion Davis, requests that the Court reduce his sentence to time served in order for him to shelter in place at home due to his vulnerability to the COVID-19 virus in the prison which he is confined and pursuant to 18 U.S.C. 3582(c)(1)(A)(i) as amended by the First Step Act of 2018.

Defendant is currently sentenced to a one-year sentence for a violation of probation. He is incarcerated at Cumberland FCI located in

Cumberland, Maryland. The prison has experienced an outbreak of COVID-19 since the Court imposed judgment on defendant. Additionally, the Health Services staff at the prison refuses to test inmates for the COVID-19 virus unless the inmate has myriad symptoms including a high fever. Due to this, the prison is unable to provide defendant with a safe environment in which he may provide self-care including social distancing, sheltering in place, and other methods of safe practices for remaining healthy recommended by the CDC (see www.cdc.gov/coronavirus).

Defendant suffers from myriad health issues rendering him extremely vulnerable to the COVID-19 virus as articulated by the CDC (see CDC website, *supra*). These health issues include: hypertension, diabetes, obesity, and also hyperlipidemia. See Exhibit A which is a portion of defendant's prison medical records obtained from FCI Cumberland's medical records staff.

Defendant submitted a request to the warden of FCI Cumberland on 4/6/2020 for compassionate release which is attached as Exhibit B. Since 30 days have passed since the warden received this request, defendant may now

submit a motion for compassionate release directly to the Court. See 18 U.S.C. 3582(c)(1)(A); see also United States v. Cantu, No. 1:05-CR-458-1, 2019 WL 2498923, at *3 (S.D. Tex. June 17, 2019) ("Under the newly amended section 3582(c)(1)(A) [the defendant] has standing to bring this motion because more than 30 days elapsed between his reduction-in-sentence request to the warden and a response.")

Accordingly, defendant respectfully requests that the Court reduce his sentence to time served so he may safely shelter in place at home.

Respectfully submitted,



Dated: 6/22/20

By: DAVION DAVIS

Prisoner no. 69501-067

FCI Cumberland

P.O. Box 1000

Cumberland, Md. 21501

(301) 784-1000



EXHIBIT A

**Bureau of Prisons
Health Services
Health Problems**

10-CR-187

Reg #: 69501-067

Inmate Name: DAVIS, DAVION PRESTON

Description	Axis	Code	Type	Code	Diag. Date	Status	Status Date
Current							
Hypermetropia	III	ICD-9	367.0	12/14/2011	Current	12/14/2011	
12/14/2011 14:17 EST Clough, S. OD							
Regular astigmatism	III	ICD-9	367.21	12/14/2011	Current	12/14/2011	
12/14/2011 14:17 EST Clough, S. OD							
Hypertension, Unspecified essential	III	ICD-9	401.9	02/18/2011	Current	06/06/2018	
06/06/2018 15:25 EST Gera, Tom PA-C							
11/17/2014 14:03 EST Meyer, Christopher PA-C	III	ICD-9	401.9	02/18/2011	Resolved	11/17/2014	
09/22/2011 15:19 EST Gupta, R. M.D.	III	ICD-9	401.9	02/18/2011	Remission	09/22/2011	
02/18/2011 14:36 EST Malingkas, Victoria MLP	III	ICD-9	401.9	02/18/2011	Current	02/18/2011	
Type 2 diabetes mellitus							
03/13/2018 09:08 EST Billiter, W. PA-C	ICD-10	E119	03/13/2018	Current			
Obesity							
03/13/2018 09:07 EST Billiter, W. PA-C	ICD-10	E669	10/05/2017	Current			
365 lbs							
10/05/2017 10:47 EST Rosario, Norbert MD	ICD-10	E669	10/05/2017	Current			
354.6 lbs							
Hyperlipidemia, unspecified							
03/13/2018 09:11 EST Billiter, W. PA-C	ICD-10	E785	03/13/2018	Current			
No Diagnosis							
01/05/2016 12:15 EST Brown, Kristine Ph.D.	I DSM-IV	No Dx	12/03/2015	Current			12/03/2015
Encounter for general adult medical exam without abnormal findings							
05/26/2017 08:25 EST Seroski, Jennifer PA-C	ICD-10	Z0000	05/26/2017	Current			
Body mass index (BMI) 40.0-44.9, adult							
03/13/2018 09:07 EST Billiter, W. PA-C	ICD-10	Z6841	10/05/2017	Current			
BMI 42.2							
10/05/2017 10:47 EST Rosario, Norbert MD	ICD-10	Z6841	10/05/2017	Current			
BMI 41							

Reg #: 69501-067

Inmate Name: DAVIS, DAVION PRESTON

Description

Axis Code Type

Code

Diag. Date Status

Status Date

Resolved**Headache**

05/26/2017 08:25 EST Seroski, Jennifer PA-C

I feel are due to eye strain. (03/2011)

III ICD-9

784.0

03/09/2011 Resolved

05/26/2017

03/09/2011 22:42 EST Quinn, Ross MD

I feel are due to eye strain. (03/2011)

III ICD-9

784.0

03/09/2011 Current

03/09/2011

Prediabetes

03/13/2018 09:07 EST Billiter, W. PA-C

09/26/2017 16:05 EST Rosario, Norbert MD

A1c 6.5%, BG 116 mg/dl

ICD-10
ICD-10R7303
R730309/26/2017 Resolved
09/26/2017 Current

03/13/2018

Injury, face (unspecified)

05/26/2017 08:25 EST Seroski, Jennifer PA-C

08/15/2016 10:47 EST Zimmerman, Anna CRNP

ICD-10
ICD-10S0993X
S0993X08/15/2016 Resolved
08/15/2016 Current

05/26/2017

Examination for medicolegal reasons

02/23/2016 07:20 EST SYSTEM

05/28/2013 14:54 EST Nehls, Teresa NP

12/07/2012 19:40 EST Cink, B. PA-C

III ICD-9

V70.4

12/07/2012 Resolved

05/28/2013

III ICD-9

V70.4

12/07/2012 Resolved

05/28/2013

III ICD-9

V70.4

12/07/2012 Current

12/07/2012

Examination for medicolegal reasons

02/23/2016 07:20 EST SYSTEM

05/05/2011 17:03 EST Hernandez, Martin MLP

III ICD-9

V70.4

05/05/2011 Resolved

05/05/2011

III ICD-9

V70.4

05/05/2011

Total: 14

**Bureau of Prisons
Health Services
Inmate Report Only (formerly labeled ISDS)**

Reg #: 69501-067

Inmate Name: DAVIS, DAVION PRESTON

SENSITIVE BUT UNCLASSIFIED – This information is confidential and must be appropriately safeguarded.

TB Clearance: Yes

Last PPD Date: 01/26/2020

Induration: 0mm

Last Chest X-Ray Date:

Results:

TB Treatment:

Sx free for 30 days: Yes

TB Follow-up Recommended: No

Transfer To:

Transfer Date: 03/06/2020

Health ProblemsHealth ProblemStatus

Hypermetropia

Current

Regular astigmatism

Current

Hypertension, Unspecified essential

Current

Type 2 diabetes mellitus

Current

Obesity

Current

365 lbs

Hyperlipidemia, unspecified

Current

No Diagnosis

Current

Encounter for general adult medical exam without abnormal findings

Current

Body mass index (BMI) 40.0-44.9, adult

Current

BMI 42.2

Medications: All medications to be continued until evaluated by a physician unless otherwise indicated.
Bolded drugs required for transport.

Atorvastatin 40 MG TAB Exp: 02/05/2021 SIG: Take one tablet (40 MG) by mouth each evening

Insulin NPH (10 ML) 100 UNITS/ML INJ Exp: 02/06/2021 SIG: Inject 18 units of NPH insulin subcutaneously each morning---Inject 12 units of NPH insulin subcutaneously each evening ***pill line***

Insulin Reg (10 ML) 100 UNITS/ML Inj Exp: 05/07/2020 SIG: Inject regular insulin subcutaneously per sliding scale: twice daily AS NEEDED 150-200 2 units, 201-250 4 units, 251-300 6 units, 301-350 8 units, 351-400 10 units ***pill line***

Lisinopril 20 MG Tab Exp: 02/05/2021 SIG: Take one tablet (20 MG) by mouth each day

metFORMIN HCl 1000 MG Tab Exp: 02/05/2021 SIG: Take one tablet (1000 MG) by mouth twice daily with food

OTCs: Listing of all known OTCs this inmate is currently taking.

None

Pending Appointments:

<u>Date</u>	<u>Time</u>	<u>Activity</u>	<u>Provider</u>
02/13/2020	00:00	Pneumovax 23 Immunization	Nurse 01
03/06/2020	00:00	Optometry Exam	Optometrist
01/26/2021	00:00	PPD Administration	Nurse
02/05/2021	00:00	Chronic Care Visit	Physician
02/05/2021	00:00	MLP Chronic Care Follow up	MLP 03

Non-Medication Orders:

<u>Order Name</u>	<u>Status</u>	<u>Frequency</u>	<u>Duration</u>	<u>Order Date</u>	<u>Details</u>
EKG	Pending	One Time		02/06/2020	baseline

Active Alerts:

No Data Found

Consultations:

Reg #: 69501-067

Inmate Name: DAVIS, DAVION PRESTON

SENSITIVE BUT UNCLASSIFIED – This information is confidential and must be appropriately safeguarded.

Pending Institutional Clinical Director Action

No Data Found

Pending UR Committee Action

No Data Found

Pending Regional Review Action

No Data Found

Pending Scheduling

No Data Found

Pending Consultation

No Data Found

Pending Results

No Data Found

Sickle Cell:Sickle Cell Trait/Disease: No**Limitations/Restrictions/Diets:**

Cleared for Food Service: Yes

Not Medically Cleared --- permanent

Comments:**Allergies**

No Known Allergies

Devices / Equipment

Eye Glasses

Travel:Direct Travel: NoTravel Restrictions: None**UNIVERSAL PRECAUTIONS OBSERVED WHEN TRANSPORTING ANY INMATE:**Transfer From Institution: CUMBERLAND FCIPhone Number: 3017841000Address 1: 14601 BURBRIDGE RD SE

Address 2: _____

City/State/Zip: CUMBERLAND, Maryland 21502Name/Title of Person Completing Form: Roach, Steven RNDate: 03/06/2020Inmate Name: DAVIS, DAVION PRESTONReg #: 69501-067DOB: 02/20/1985Sex: M

EXHIBIT B

From: ^!"DAVIS, ^!DAVION PRESTON" <69501067@inmatemessage.com>
To:
Date: 4/6/2020 2:21 PM
Subject: ***Request to Staff*** DAVIS, DAVION, Reg# 69501067, CUM-C-A

To: warden
Inmate Work Assignment: na

ATTENTION

Please cut and paste the message indicator below into the subject line; only this indicator can be in the subject line.

a77c8fe7-832f-436b-9900-c46d43901f85

Your response must come from the departmental mail box. Responses from personal mailboxes WILL NOT be delivered to the inmate.

Inmate Message Below

i am requestion for emergency compassionate release now that Covid-19 has reach inside the prison i am subject to fatal danger being that i am type 2 diabetes chronic hypertension and high cholestrol ..Especially being that my diabetes is very serious and always high i am under 1year on violaion but with the seriousness of this pandemic there is high risk for fatality my lawyer said we must sub,it a pardon from you i ask that you seriously consider my request please and thank you.

A handwritten signature in black ink, appearing to be 'D D' or similar, with a long horizontal stroke extending to the right.

DAVION DAVIS #69501-067
FEDERAL CORRECTIONAL INSTITUT
P.O. BOX 1000
CUMBERLAND, Md. 21501-100

RECEIVED
SCRANTON

JUN 29 2020

PER

DEPUTY CLERK

U.S. DISTRI
ATTN: CLERK
235 N. WA
P.O. BOX 11
SCRANTON

LEGAL MAIL